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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,013	09/09/2003	Osamu Kimoto	81710.0258	4037
26021 7590 07/01/2008 HOGAN & HARTSON L.L.P. 1999 AVENUE OF THE STARS SUITE 1400 LOS ANGELES, CA 90067			EXAMINER MENBERU, BENIYAM	
			ART UNIT 2625	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/658,013	Applicant(s) KIMOTO, OSAMU	
	Examiner BENIYAM MENBERU	Art Unit 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 19-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/9/03, 1/24/05, 3/8/05, 12/13/06, 3/1/07</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election of Group I/Species I in the reply filed on April 10, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Reference 15 in Figure 1 is not in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6, 11, 12, 13, 18, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. US 2002/0089702 A1 to Yoshitani et al.

Regarding claim 1, Yoshitani et al '702 discloses a color image communication device comprising (page 4, paragraph 62; color facsimile):

means for transmitting by facsimile, image data of a sYCC-Joint Photographic Experts Group (JPEG) color space (page 7, paragraph 106, 109; page 8, paragraph 110, 116; For email transmission of color image, the image is transformed to YCbCr-jpeg format (YCC-jpeg) in step s436 and transmitted in step s446 in Figure 5;); and

means for controlling a facsimile transmission of the image data of the sYCC-JPEG color space without setting size information in a facsimile communication protocol when the image data to be transmitted by facsimile is the image data of the sYCC-JPEG color space (page 6, paragraph 80; page 8, paragraph 110; For email transmission of photograph size image, there is option to transmit the image as it is without adding pixel

to fit the A4 size which reads on without setting size information. When A4 size is set then the size is adjusted to A4 size for transmission.).

Regarding claim 6, Yoshitani et al '702 discloses a color image communication device comprising (page 4, paragraph 62; color facsimile):

means for transmitting color image data of a first color space in accordance with a facsimile communication protocol (Figure 4a, in step s410 where FAX option is selected, the color space to be used is LAB color space (first color space) as shown in step s416 in Figure 4b; page 7, paragraph 102; Further it is transmitted in step s423 (page 7, paragraph 104). The transmission is according to G3 protocol);

means for transmitting color image data of a second color space in accordance with the facsimile communication protocol (In Figure 4a, when e-mail is selected, it goes to Figure 5, wherein image is transmitted using YCbCr color space (second color space) in step s446 (page 8, paragraph 110, 116). The protocol used is the SMTP (page 1, paragraph 7).); and

means for controlling a facsimile transmission of color image data by setting size information in the facsimile communication protocol when the color image data is the color image data of the first color space (page 6, paragraph 80; page 7, paragraph 102; In FAX mode, the size is set to A4 for transmission, and pixels can be added if necessary to make it A4 size. The FAX mode uses LAB color space(see steps s416).), and to carry out a facsimile transmission of the color image data without setting the size information in the facsimile communication protocol when the color image data is the

color image data of the second color space (page 6, paragraph 80; page 8, paragraph 110; For email transmission of photograph size image which correspond to the YCbCr color space, there is option to transmit the image as it is without adding pixel to fit the A4 size which reads on without setting size information. When A4 size is set then the size is adjusted to A4 size for transmission.).

Regarding claim 11, Yoshitani et al '702 teaches all the limitations of claim 6. Further Yoshitani et al '702 discloses the color image communication device according to claim 6, wherein image data of a sYCC-Joint Photographic Experts Group (JPEG) color space is included as the color image data of the second color space (In Figure 4a, when e-mail is selected, it goes to Figure 5, wherein image is transmitted using YCbCr-jpeg color space (second color space) in steps s437, s446 (page 8, paragraph 110, 116)).

Regarding claim 12, Yoshitani et al '702 teaches all the limitations of claim 6. Further Yoshitani et al '702 discloses the color image communication device according to claim 6, wherein image data of a CIELAB color space is included as the color image data of the first color space (Figure 4a, in step s410 where FAX option is selected, the color space to be used is LAB color space (first color space) as shown in step s416 in Figure 4b; page 7, paragraph 102;).

Regarding claim 13, Yoshitani et al '702 discloses a color image communication method comprising (page 4, paragraph 62; color facsimile):
determining whether or not color image data to be transmitted is image data of a sYCC-

Joint Photographic Experts Group (JPEG) color space, prior to a facsimile transmission of the color image data (page 9, paragraph 128, 132, 136; When image is input from scanner, the color space is determined as RGB but when image is input from CF card, the color is determined as YCbCr-Jpeg color is determined.); and

transmitting image data of the sYCC-JPEG color space by facsimile without setting size information in a facsimile communication protocol when the color image data to be transmitted is image data of the sYCC-JPEG color space (page 6, paragraph 80; page 8, paragraph 110; For email transmission of photograph size image which correspond to the YCbCr color space, there is option to transmit the image as it is without adding pixel to fit the A4 size which reads on without setting size information. When A4 size is set then the size is adjusted to A4 size for transmission.).

Regarding claim 18, Yoshitani et al '702 discloses a color image communication method comprising (page 4, paragraph 62; color facsimile):

determining whether or not color image data to be transmitted is image data of a sYCC-Joint Photographic Experts Group (JPEG) color space, prior to a facsimile transmission of the color image data (page 9, paragraph 128, 132, 136; When image is input from scanner, the color space is determined as RGB but when image is input from CF card, the color is determined as YCbCr-Jpeg color is determined.); and

transmitting image data of the sYCC-JPEG color space by facsimile without setting size information in a facsimile communication protocol when the color image data to be transmitted is the image data of the sYCC-JPEG color space (page 6, paragraph 80;

page 8, paragraph 110; For email transmission of photograph size image which correspond to the YCbCr –JPEG color space, there is option to transmit the image as it is without adding pixel to fit the A4 size which reads on without setting size information. When A4 size is set then the size is adjusted to A4 size for transmission.), and transmitting image data of a color space other than the sYCC-JPEG color space by facsimile by setting size information in the facsimile communication protocol when the color image data to be transmitted is not the sYCC-JPEG color space (page 6, paragraph 80; page 7, paragraph 102; In FAX mode, the size is set to A4 for transmission, and pixels can be added if necessary to make it A4 size. The FAX mode uses LAB color space (see steps s416).).

Regarding claim 23, Yoshitani et al '702 discloses a color image communication device comprising (page 4, paragraph 62; color facsimile):

a transmission unit which carries out a facsimile transmission of image data of a sYCC-Joint Photographic Experts Group (JPEG) color space (Figure 1, reference 101 is transmission unit; page 7, paragraph 106, 109; page 8, paragraph 110, 116; For email transmission of color image, the image is transformed to YCbCr-jpeg format (YCC-jpeg) in step s436 and transmitted in step s446 in Figure 5); and

a control unit which controls a facsimile transmission of the image data of the sYCC-JPEG color space without setting size information in a facsimile communication protocol when the image data to be transmitted by facsimile is the image data of the sYCC-JPEG color space (page 3, paragraph 48, facsimile 101 contains CPU 201 (control

unit); page 6, paragraph 80; page 8, paragraph 110; For email transmission of photograph size image, there is option to transmit the image as it is without adding pixel to fit the A4 size which reads on without setting size information. When A4 size is set then the size is adjusted to A4 size for transmission.).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 7, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. US 2002/0089702 A1 to Yoshitani et al further in view of U.S. Patent Application Publication No. US 2002/0039201 A1 to Yoshida.

Regarding claim 2, Yoshitani et al '702 teaches all the limitations of claim 1. Further Yoshitani et al '702 discloses the color image communication device according to claim 1, wherein when the image data to be transmitted by facsimile is image data of the sYCC-JPEG color space, the means for controlling controls a facsimile transmission of the sYCC-JPEG color space without setting size information (page 6, paragraph 80; page 8, paragraph 110; For email transmission of photograph size image, there is option to transmit the image as it is without adding pixel to fit the A4 size which reads on

without setting size information. When A4 size is set then the size is adjusted to A4 size for transmission.). However Yoshitani et al '702 does not disclose wherein the means for controlling the size information is a Digital Command Signal (DCS) of the facsimile communication protocol.

Yoshida '201 discloses controlling the size information in a Digital Command Signal (DCS) of the facsimile communication protocol (Figure 2 shows the DCS signal bits information; In Figure 5, for color transmission (yes in s40 and yes in s42), the different document sizes are set based on step s44. In Figure 6 when A3 is set, bits X, X+1 of DCS is set to 0,1 corresponding to color A3 size in step s50 (page 3, paragraph 68). However when monochrome is set (no in step s40), different document size can be transmitted in step s46. In Figure 9, when monochrome A3 size is selected, bits 17, 18 of DCS corresponding to monochrome A3 size is set , but however bits X, X+1 of DCS is not set (not transmitted in step s82) (page 4, paragraph 84). Thus there is option of transmission without forwarding/setting some bits of the DCS corresponding to the color size when monochrome transmission is selected.).

Having the system of **Yoshitani et al '702** and then given the well-established teaching of **Yoshida '201**, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of **Yoshitani et al '702** as taught by **Yoshida '201**, since **Yoshida '201** stated in page 4, paragraph 92, 93, such a modification would provide the size information necessary for transmitter and receiver to communicate correctly.

Regarding claim 7, Yoshitani et al '702 teaches all the limitations of claim 6. Further Yoshitani et al '702 discloses the color image communication device according to claim 6, wherein in case of the color image data of the first color space, the means for controlling controls a facsimile transmission of the color image data by setting the size (page 6, paragraph 80; page 7, paragraph 102; In FAX mode, the size is set to A4 for transmission, and pixels can be added if necessary to make it A4 size. The FAX mode uses LAB color space(see steps s416).), and in case of the color image data of the second color space, the means for controlling controls a facsimile transmission of the color image data without setting the size information (page 6, paragraph 80; page 8, paragraph 110; For email transmission of photograph size image which correspond to the YCbCr color space, there is option to transmit the image as it is without adding pixel to fit the A4 size which reads on without setting size information. When A4 size is set then the size is adjusted to A4 size for transmission.). Further Yoshida '201 discloses the setting of size information in a Digital Command Signal (DCS) of the facsimile communication protocol (Figure 2 shows the DCS signal bits information; In Figure 5, for color transmission (yes in s40 and yes in s42), the different document sizes are set based on step s44. In Figure 6 when A3 is set, bits X, X+1 of DCS is set to 0,1 corresponding to color A3 size in step s50 (page 3, paragraph 68). However when monochrome is set (no in step s40), different document size can be transmitted in step s46. In Figure 9, when monochrome A3 size is selected, bits 17, 18 of DCS corresponding to monochrome A3 size is set , but however bits X, X+1 of DCS is not set (not transmitted in step s82) (page 4, paragraph 84). Thus there is option of

transmission without forwarding/setting some bits of the DCS corresponding to the color size when monochrome transmission is selected.).

Regarding claim 14, see rejection of claim 2 as shown above.

7. Claims 3, 4, 8, 9, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0089702 A1 to Yoshitani et al in view of U.S. Patent No. 6259469 to Ejima et al.

Regarding claim 3, Yoshitani et al '702 teaches all the limitations of claim 1. Further Yoshitani et al '702 discloses the color image communication device according to claim 1, wherein when the image data to be transmitted by facsimile is image data of the sYCC-JPEG color space, the means for controlling controls a facsimile transmission of a file of the image data of the sYCC-JPEG color space without setting size information in the facsimile communication protocol (page 6, paragraph 80; page 8, paragraph 110; For email transmission of photograph size image, there is option to transmit the image as it is without adding pixel to fit the A4 size which reads on without setting size information. When A4 size is set then the size is adjusted to A4 size for transmission.). However Yoshitani et al '702 does not disclose a format in which function information is attached in the file.

Ejima et al '469 discloses a format in which function information is attached in the file (column 24, lines 30-45; The header 70 is function information attached for the file shown in Figure 22.).

Having the system of ***Yoshitani et al '702*** and then given the well-established teaching of ***Ejima et al '469***, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of ***Yoshitani et al '702*** as taught by ***Ejima et al '469***, since ***Ejima et al '469*** stated in col. 24, Lines 39-42, such a modification would provide controlling data for communication.

Regarding claim 4, Yoshitani et al '702 in view of Ejima et al '469 teaches all the limitations of claim 3. Further Ejima et al '469 discloses the color image communication device according to claim 3, wherein the function information includes information indicating a fact that the image data included in the file to be transmitted is an image from a digital camera (column 24, lines 30-45; The header 70 contains identification of the electronic camera.).

Regarding claim 8, see rejection of claim 3 as shown above wherein the second color space is the sYCC-Jpeg color space.

Regarding claim 9, see rejection of claim 4 as shown above.

Regarding claim 15, see rejection of claim 3 as shown above.

Regarding claim 16, see rejection of claim 4 as shown above.

8. Claims 5, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0089702 A1 to Yoshitani et al in view of U.S. Patent No. 6259469 to Ejima et al further in view of U.S. Patent No. 7110026 to Feldis, III.

Regarding claim 5, Yoshitani et al '702 in view of Ejima et al '469 teaches all the limitations of claim 3. However Yoshitani et al '702 in view of Ejima et al '469 does not disclose the color image communication device according to claim 3, wherein the function information includes information indicating a number of pixels of the image data.

Feldis, III '026 discloses wherein the function information includes information indicating a number of pixels of the image data (column 4, lines 59-66; column 5, lines 43-55; resolution is information of number of pixel.).

Having the system of ***Yoshitani et al '702 in view of Ejima et al '469*** and then given the well-established teaching of ***Feldis, III '026***, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of ***Yoshitani et al '702 in view of Ejima et al '469*** as taught by ***Feldis, III '026***, since ***Feldis, III '026*** stated in col. 2, Lines 9-17, such a modification would provide resolution conversion information in an image data.

Regarding claim 10, see rejection of claim 5 as shown above.

Regarding claim 17, see rejection of claim 5 as shown above.

Other Prior Art Cited

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5801846 to Nobuta discloses communication device.

U.S. Patent No. 6970262 to Saito discloses color/monochrome communication.

U.S. Patent No. 7289245 to Kagawa discloses facsimile device.

U.S. Patent No. 6288800 to Izumi discloses facsimile communication.

U.S. Patent Application Publication No. US2004/0114196 A1 to Yoshida discloses sYCC image communication system.

U.S. Patent Application Publication No. US2004/0075850 A1 to Yoshida discloses sYCC image communication system.

JP 2003-158622 to Kondo discloses facsimile communication using DCS signal.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENIYAM MENBERU whose telephone number is (571) 272-7465. The examiner can normally be reached on 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is (571) 272-2600. The group receptionist number for TC 2600 is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see [<http://pair-direct.uspto.gov/>](http://pair-direct.uspto.gov/). Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner

Beniyam Menberu

/Beniyam Menberu/
Examiner, Art Unit 2625

06/27/2008

/David K Moore/

Supervisory Patent Examiner, Art Unit 2625